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## Membership Subscription Terms of Service Agreement

We'd like to help you get your pictures and profile online to share them with others, to help you express yourself to the world, to give you an experience that you will (hopefully) find fun and amusing and (maybe – no promises!) to help you find the kind of people you're looking for. The Agreement which follows establishes the mutual relationship that will exist between us.

Either of us can break our ties at any time (though some obligations will go on after this Agreement terminates), but our Agreement here establishes the legal rights and responsibilities we, together, will have in regard to each other while our relationship continues - and afterwards.

What follows is a contract, and so you should read each of its provisions carefully so that you understand them. In order to post here, you have to enter into the following "Terms of Service" Agreement with us.

By clicking the button below that says, "Yes! I accept the Terms of Service and enter into this Agreement" and also when you communicate with other Members, or when you establish a profile in which you can upload information, statements, or photographs, you enter into the Agreement. You can't change the Terms of Service or alter them in any way or only agree to some of the provisions.

If you don't want to agree to the Terms of Service, you should use your browser "back" button or exit from this site by clicking this link [here](#) and proceed out of this website.

**NOTICE:** You should know that authorized access to XDATING.COM, including, but not limited to using any of its Services, is limited to persons who have read and who have accepted the Agreement which follows - and only to persons legally competent to enter into contracts. Permission for access is denied to all other persons by its owners and operators. Unauthorized access to any of XDATING.COM's Services amounts to the crime of computer trespass or computer intrusion under the laws of one or more jurisdictions. And so, if you are under the age of 18, you may not use the services of XDATING.COM at all. If you are a minor and proceed to click and accept, you do as a

EXHIBIT 18-B  
TO DECLARATION OF  
WILLIAM LIVINGSTON

trespasser, subject to criminal penalty. Please wait until you are 18 years of age or older, and then come back to join.

## A. Establishment of this Agreement

**Nature, Formation, Modification and Duration of Agreement, Definitions of persons mentioned in this Agreement.** This Agreement (sometimes called "*Terms of Service*" in this Agreement) is made and entered into by and between **XDATING.COM** (a business name of DG International Limited., a St. Kitts company and a business name of DG International Limited, a Guernsey company) (also sometimes called "*we*" and "*us*" in this Agreement), and "*you*", a *Member* in the program administered by us, for good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by you and by XDATING.COM); Together, you and we are the "parties"; You become a *Member* by entering into this Agreement; the other persons who do so are "*Members*", too. Your relationship with us (and that of other Members) is called a "*Membership*" in this Agreement. You will have expressed your assent, consent, and agreement to all of the terms of this Agreement by clicking on the link below ("Yes! I accept the Terms of Service and enter into this Agreement"). **This Agreement is subject to change by us at any time through a procedure calculated and designed to inform you of the change:** If we decide to change this Agreement, when we do so we will send you a notification of each change at the email address identified in your profile. We will also post the changes on the web page at this address: <http://www.xdating.com/site/terms>. You agree that this is a reasonable procedure that will reasonably and effectively communicate notices of Agreement changes to you. (You also agree that, should you determine to discontinue the use of the email address that you provided to us at the time of registration, substituting another email address, you will update your registration information with us by changing it to reflect the newly intended email address and by deleting the former email address, before you cease monitoring messages in the former email account, insuring that our emails will always be sent to your active, current, monitored email address.) You agree that if you use any of the Services offered by XDATING.COM after we have transmitted an email to you in this manner and we have posted it to the page whose URL is set forth above, you thereby give your agreement and consent to the Agreement as it has been changed, regardless of whether you actually read or received the email notifying you of the change or whether you actually did or did not read the changes posted, and those changes will become effective to modify this Agreement forty-eight (48) hours after we transmitted such an email to you. If you do not wish to consent to the changes in this Agreement, you must cancel your Membership through this link and you must refrain from using any of the Services offered by XDATING.COM. This Agreement remains in force and effect until or unless it is changed in accordance with the terms of this Paragraph or is otherwise terminated under the terms of this Agreement. Some of your obligations to us under this Agreement or any successor Agreement survive any change or termination of this Agreement or the termination of your Membership for any reason.

## B. Our Obligations to You.

We promise you the following, while you are a Member, subject to all of the terms of this Agreement that:

1. We will provide you with a **Service** that enables you to post photographs and personal profile information about you for the evaluation or enticement of our other Members, and which will enable other registered Members to contact you and you to contact them by instant message or email, and for all of our Members to search for one another, all by means of our servers and proprietary software. In



this Agreement, "**Service**" and "**Services**" are used interchangeably to mean these same things or any of them.

2. XDATING.COM is intended and operated only for purposes of entertainment and fun and for no other purpose or purposes. We have created and operate what we think to be the best platform in existence to encourage and facilitate the process of bringing people together online. We hope that you meet other people you like through our Services – and that they like you, too. If you'd like to flirt, we hope that you get to do that, too. But we do not guarantee that you will ever meet, chat, converse, or flirt with, or exchange any information with any other real person, or any other real person looking for a genuine relationship. We aim to entertain and amuse you – and in order to enhance your enjoyment of the time you spend with us, we will employ technical means to engage you in the simulation of flirting with and discovering other attractive people. If we do it well, you may never be able to tell that we are doing it or know when it happens. This is more fully explained in Section I. of this Agreement, Cautions About The Use Of This Service And Your Release Of Liability. We will aspire to operate XDATING.COM in a reasonable way under procedures that enhance your enjoyment and the benefit that you will receive from our Services, to protect your autonomy, expression, freedom of choice access, and security in ways that seem reasonable to us (in our sole discretion) and to endeavor to accomplish these things in the manners particularly described in this Agreement. We have the sole and exclusive right to run XDATING.COM and its Services as we see fit, to terminate or modify any or all of its Services, to terminate your Membership or that of anyone else, or even to terminate this site or any Service or any part of any Service at any time, for any reason or for no reason, with or without prior notice to you or anyone else, as we choose, in our sole discretion. Our choices will always balance competing interests and values, including our own, and our decisions may not satisfy everyone nor perfectly nor even approximately accomplish any particular goal mentioned in this Paragraph. We will run XDATING.COM by doing what we think is the right thing and you agree to accept our services exclusively on that basis.

3. We will answer your questions within a reasonable time about these "Terms of Service" and the way our Service operates. We may decline to answer questions about proprietary information or trade secrets in the operation of our site or for any other business reason.

4. We will design and implement reasonable measures calculated to assure your reasonable (but severely attenuated and diminished) expectation of privacy in the context of a Service which, by its very nature, attracts public attention to your appearance and profile, puts you in contact with strangers, and which depends on advertising and promotion with other, independent entities for commercial viability. You will be able to post your photographs, personal profile, and comments, and engage in instant chat with other persons in line with our Member Privacy, Security and Information Usage Policy, Section D. of this Agreement.

5. When we change this Agreement, we will send you an email advising you of the change and post the changes, as more fully explained in the controlling provisions above, in Section A. of this Agreement.

6. Our liability to you concerning any of these obligations and any duty which we might owe to you are limited by the disclaimers of liability and other provisions contained in this Agreement.

## **C. A Summary of Your Obligations to Us.**

The following language conveniently summarizes many of your obligations to us. Some or most of the obligations described in this Part C. are more completely recited in other parts of this Agreement and the more complete recitation controls if there appears to be any conflict between them. Neither that a duty described elsewhere is omitted in this Part C. nor that a duty is alone described here affects its validity and force.

You promise and represent to us all of the following, subject to all of the terms of this Agreement,

1. You are at least 18 years old at the present time. You agree that when you register with us, you will honestly and accurately enter the true date and year of your birth. You also agree that all of the other information you provide us for any purpose at any time will be truthful, accurate, and complete, as provided for in Paragraph 9. of this Section, in the Registration Rules contained in Section E. of this Agreement, and in Section J., Use and Abuse of the Services, and elsewhere in this Agreement.
2. You agree to keep your email address registered with us current and to monitor your incoming email every day. You agree to read the email messages we send you. If they announce a change or modification of these and you do not wish to agree to them, you agree that you must immediately cancel your Membership in the manner provided for in this Agreement and that you will nevertheless be bound by those changes or modifications should you fail to immediately cancel your membership.
3. You agree to click on the Terms of Service link located on our homepage to check for changes or modifications in these Terms of Service at least as frequently as you use any of the Services offered by us.
4. You agree to read the provisions of this Agreement and to ensure that your conduct conforms to the rules and obligations set forth in them in every respect, at all times. You agree not to do any of the things that this Agreement prohibits. You agree to seek amplification or explanation from us in regard to any term, wording, or provision that you do not understand or which seems confusing or vague to you and to accept our explanation or interpretation, in our sole discretion, as authoritative, final, and controlling. You understand that more detailed Registration Rules (Section E.) Member Standards of Conduct (Section F.) are contained in this Agreement and that, by accepting this Agreement, you are bound by them as they are presently articulated and as they may, in the future, be changed or modified.
5. You agree to obey the laws of every jurisdiction, national, state or provincial, and local that has authority over you in your use of our Services. You agree that you will not use the Services to infringe or violate the rights of or to intimidate, harass, or bully any Member (or any other person at all), nor to violate our rights, nor do any of these things in any place or manner outside our Services with information or other things that you obtained using our Services. You agree that, in using our Services, you will at all times act reasonably and in good faith, and that you will not unreasonably burden or afflict or inconvenience the use of the Services by any Member or us. Important details concerning your obligations are contained in this Agreement under Member Standards of Conduct. (Section F.)
6. You agree that, in using our Services, you will accept sole and exclusive liability for the consequences of your own conduct in violation of this Agreement or in violation of the legal rights of any person, or in violation of the law. You understand that this Agreement contains many provisions regarding your own liability for your conduct, your complete waiver of any claim against us, and your indemnification of us should any aspect of your conduct give rise to a claim against us; each is important for you to understand in this regard. See Sections H., I., J., and K., and other provisions

contained elsewhere. You agree that as a Member, you are using our Services for your own purposes and that the relationship between you and us is not a joint venture or partnership nor an employment or agency relationship. We simply provide Services to you under this Agreement. You are not authorized to do anything at all on our behalf nor to tell or otherwise communicate anything to the contrary to any person under any circumstances.

7. You agree that you will not share your password with any other person, nor through oversight or negligence, allow any other person to learn it. You will not permit any other person (not even your spouse, Significant Other, or BFF!) to gain access to your account. You will notify us immediately when you learn or suspect that the confidentiality of your password has been compromised. This obligation is more fully explained and is controlled by Section D. of this Agreement, Member Privacy, Security and Information Usage Policy, and at Paragraph F. 6., in the Member Standard of Conduct.

8. You understand that your registration entitles you **and only you** to use the Services provided to you at registration, and that no right or privilege or access granted to you concerning the Service can be sold, assigned, leased, given, rented, or transferred by you to any other person (or published or distributed) without our prior consent in writing. You promise that you will not do or attempt to do any of these things.

9. You agree that you will co-operate with us in any reasonable investigation that we may conduct concerning the use of the Services by you or any other person. You will provide us with accurate, truthful, and complete statements, information, correspondence, records, and/or documents, promptly upon our request, and if asked to do so, you will provide it under oath. This duty is more fully explained in this Agreement under Abuse and Proper Use of the Services (Section J.).

10. You agree to tell us (as provided for in Section L. of this Agreement, Termination) when you want to call it quits and terminate your active participation in the Services we provide by canceling your registration at this link. Some of your obligations under this Agreement will continue after termination as provided in this Agreement.

11. By posting your photograph and personal profile here, you voluntarily attract the attention and interest of many persons, and you thereby ask them to comment or evaluate. You agree to waive any claims against anyone operating or using this Service for defaming you or for portraying you in a false light, for insulting you, or for bringing private facts any of them might know about you to public knowledge or to the knowledge of any other person, for hurting your feelings, and for intentional infliction of emotional distress upon you. Simply put, you are most sincerely advised not to disclose anything about yourself in our Services – even in messages - that you don't want to be known publicly – and that you should not use our Services at all unless you have a very thick skin. This is more fully explained in Section I. of this Agreement, Cautions About The Use Of This Service And Your Release Of Liability.

12. The world we live in is filled with cheats, frauds, poseurs, the false and insincere, with rapacious characters who seek to take unfair advantage of the guileless, naive, innocent and trusting. You might meet actual people through our services, but then again, you might not; you may never know for sure whether any encounter was with a real person. You may encounter profiles that are total fakes and you may receive communications from total fakes through our services. By "total fakes" we mean to include profiles that are total fiction, pure and simple, posted by people who bear no resemblance whatsoever to the identity described and we mean also to include communications generated by people who are deceiving you in every regard about their identity, description, and motives and

communications from scripts and programs operated automatically to deceive and mislead, which may not actually not be transmitted by any real person at all. The real people you meet, if any, may be total imposters and may have malicious or pecuniary motives; they may even be paid to engage you. There simply is no way to keep these characters and programs out of any social networking site any more than there would be a way to keep them all out of society in general, and so it surely possible, and more, perhaps likely, that you will encounter them here. You may be amused by them, too. You are most strenuously advised to trust no one but your Mother, and certainly not to trust the rascals or programs you will meet here. In this Agreement, you release us from all liability stemming from any of this. This is more fully explained in Section I. of this Agreement, Cautions About The Use Of This Service And Your Release Of Liability.

### 13. Categories of Membership and Charges:

- a) When you join as a Free Member you agree to the terms of this Agreement, but you do not agree to pay us any Membership subscription fee. The terms of this Agreement remain in effect until it has been terminated in conformity with its provisions. Some of its provisions survive the termination of this Agreement.
- b) This Agreement adopts and incorporates the schedule of Premium Membership prices, the descriptions of the duration of the Membership Subscription Period, and the description of Premium Membership benefits as they are published and described in our Upgrade Page at the time that you enter into this Agreement. It also adopts and incorporates each and every change that may be made to that schedule at the time that such changes may become effective pursuant to the provisions of Section A. of this Agreement.
- c) We offer several categories or tiers of Premium Membership. These categories may include a Silver or Gold Premium Membership and may also include different, special categories of membership.
- d) When you subscribe to a Premium Membership, you do so under an initial discounted or promotional plan by which you pay a reduced price for an Initial Membership Subscription Period, which may be shorter than a Regular Membership Subscription Period. When you subscribe under such a plan, you agree to pay us, at the time when your Initial Membership Subscription Period ends, at the normal, nondiscounted, nonpromotional, higher, price ("**the Normal Rate**") for the next Regular Membership Subscription Period and to do so again on a recurring and periodic basis when that and all subsequent Regular Membership Subscription Periods end, unless this Agreement has earlier been effectively terminated in conformity with its provisions. You agree to pay us by means of automatic credit card rebilling on a recurring, periodic basis, at the then-effective Normal Rate for your category of Premium Membership then-published on our Upgrade Page with respect to a regular Membership Subscription Period recurring at the end of an Initial Membership Subscription Period.
- e) We may change the categories of Premium Membership over time in ways that may affect the duration of Regular Membership Subscription Period, the Normal Rate, and the particular services which are provided for category, just as any other term in this Agreement may be changed in conformity with the provisions of Section A of this Agreement. The cost of your Premium Membership will not be increased nor the Services provided to you categorically decreased so as to become effective until your current Membership Subscription Period comes to an end.
- f) You authorize us to charge you (by means of on the credit card account by which you paid for your initial Membership subscription fee) for your initial Membership Subscription Period and thereafter, periodically and on a recurring basis, to charge the same account, by means of automatic credit card rebilling, at the Normal Rate for your category of Premium Membership



then-published on our Upgrade Page with respect to recurring billing after the end of any Initial Membership Subscription Period, even if the Normal Rate has been increased from the current Normal Rate in conformity with the terms of this Agreement, and to do so again on a periodic and recurring basis when each subsequent Membership subscription period ends, until or unless this Agreement has earlier been terminated pursuant to its provisions.

**14. THE PURCHASE OF A SUBSCRIPTION IS NON-REFUNDABLE.** Once purchased the Membership subscription has no monetary value and only entitles you to use of the Services we provide for the Membership Period. In addition to paying the published price, you are responsible for paying all applicable taxes in connection with the purchase of the Membership subscription.

15. If you incur any additional charges beyond those provided as part-and-parcel with your level of Premium Membership, you agree to pay or have paid all fees and charges incurred in connection with your Membership with the Service (including any applicable taxes) at the rates in effect when the charges were incurred. **ALL FEES AND CHARGES ARE NON-REFUNDABLE.**

16. You also are solely responsible for any fees or charges incurred to access our Services through an Internet access provider or other third party service, including but not limited to telephone charges.

**17. YOU, AND NOT WE, ARE RESPONSIBLE FOR PAYING ANY AMOUNTS BILLED TO YOUR CREDIT CARD BY A THIRD PARTY, WHICH WERE NOT AUTHORIZED BY YOU.**

18. You represent and warrant to us that you are authorized to charge transactions on the credit card you used to purchase your Membership subscription. You understand that we can sue you and take any other lawful collection action should you defraud us in this regard or should you fail to pay your Membership subscription charges as they are incurred. You also agree that we shall have the right to recover our reasonable attorney's fees and court costs associated with such a lawsuit.

## **D. Member Privacy, Security and Information Usage Policy.**

1. You agree that you are exclusively responsible for assuring the confidentiality of your username and password, and the security of your account. Upon becoming a registered member of XDATINGS.COM, we will create an account for you and you will select a unique username and password combination which allows you to access the Services we provide. You agree that you shall not transfer or assign them (or any of your rights under this Agreement) nor shall you grant permission for their use to or by any other person. The username and password are confidential and proprietary material, the property of XDATINGS.COM, and you have a strict obligation to keep the username and password confidential. We may cancel your account, at any time, with or without providing you a new account, and/or issue you a new Username and Password combination for an existing account, with or without cause, with or without prior notice to you and we may bar you from further registrations, all in our sole and absolute discretion. You never acquire a right to the use of our Services which we cannot discontinue. Should the confidentiality of your username or password become compromised or should you have reason to believe that either may have become compromised by having been learned by a person other than you, you agree to immediately to inform us via [this link](#).

2. The physical security of the data you upload to XDATINGS.COM has been protected by our special security protocols engineered to afford a high degree of integrity and protection against the theft,

destruction, unauthorized use, or alteration of the information associated with you or collected from you. However, no one can guarantee absolute protection of data stored on servers, and we do not warrant or guarantee the protection and security of any data you enter, upload, or transmit, but we have a high degree of confidence that our protocols result in superior security. You agree to keep and retain local offline backup copies of every item of text, images, audio, video, links, scripts, and/or design that may be of any value to you, so that its deletion from our Services, intentional or otherwise, will not irretrievably cause its permanent loss to you or destruction – and we most strenuously advise you to do so regularly and often, as frequently as you make any change to your page. We assume no obligation to back-up any of your data or to provide you with any copy of any data.

3. You agree that our authorized representatives may gain access to your account (and all of the information and data it contains) and use it for any reasonable business purpose. They can, in their full, complete, and final discretion change or delete or add to any of the contents of your account – by way of example and without any limitation of the foregoing, to remove profane language, to change your listed gender, to remove images or text of any kind, and, in short, to make any and all possible changes in our sole discretion, of any kind or sort whatsoever, for any reason or for no reason, with or without any prior notice. We may even put advertising on your page or in your communications in our Services.

4. You agree that you have a severely diminished and attenuated expectation of privacy with respect to any information, files, or data you provide or upload to XDATING.COM or which is collected by it in association with your identity. In fact, you grant us extensive rights concerning them to use them all commercially.

5. The very nature of this site puts you and your profile in the public eye for evaluation and rating and comment, and attracts instant chat and email from strangers. You consent to receiving email and instant messages (including advertisements and solicitations, even if they are duplicates) from XDATING.COM, and its associates, licensees, customers, strangers, and Members without temporal or any other limitation, qualification, or reservation, even if you have had no prior contact or communication with any such person. You expressly consent to our disclosure and commercial use of the Content that you upload, communicate or transmit in your use of our Services and to our disclosure and the commercial use of any data or information derived or acquired from your use of the Services, including use by third-party advertisers, without effect to the other releases, grants, and licenses contained in this Agreement. The term "**Content**" in this Agreement means everything and anything at all that is capable of publication, posting, uploading, transmission, or communication, including but not limited to text, images, photographs, video, music, programs, and anything else so capable, at all, without limitation. The terms of this Paragraph survive the termination of this Agreement for any reason.

6. With the exception of personal financial and billing information, you hereby grant to us a perpetual, unlimited, royalty-free, world wide, non-exclusive, irrevocable, freely transferable, license to run, display, copy, reproduce, publish, bundle, distribute, market, create derivative works of, adapt, translate, transmit, arrange, modify, sub-license, export, merge, transfer, lend, rent, lease, assign, share, outsource, host, make available to any person or otherwise use, any information or other Content you provide, upload, or transmit, on or through the Services we provide or which is sent to us by e-mail or other correspondence, for any purpose whatsoever. We may use any and all of this Content, including but not limited to text and photographs (regardless of whom they may depict) of any nature for any purpose, including, but not limited to their commercial public use in websites or in any other media we or any associates or contractors or licensees of ours may operate and in any other media of any nature whatsoever, published or operated by anyone. We shall have no obligation of



confidentiality to you regarding any such Content unless specifically agreed by us in writing or required by law. We shall never be obliged to delete any information from the web site. These foregoing provisions shall survive termination of this Agreement for any reason.

7. You agree that, even should you terminate this Agreement, portions of your profile may remain visible by other Members.

8. You agree that, by registering and uploading and/or transmitting Content in our Services, you, yourself, are publishing them by your use of our Services. You warrant and represent to us that you possess all Publication Rights concerning any Content you use or employ in your use of our Services and that your use of our Services in connection with any Content violates the rights of no person whatsoever. You warrant that our commercial use of that Content will violate the rights of no person whatsoever. You irrevocably grant us the freely assignable or licensable right to our unrestricted, royalty-free, worldwide use of the Content that you shall publish or transmit through the use of our Services in any media or merchandise at any time, irrevocably and perpetually, waiving and releasing any and all private rights, including but not limited to rights of publication and/or publicity, public disclosure of private facts, moral rights, copyright, and any other right of any character whatsoever belonging to any person that might otherwise burden such free use of this Content in the manner described. You warrant that you possess all rights and powers necessary to effectively grant the licenses and permissions necessary for the exercise of free and plenary use of the Content which you have granted to us and to others in this Section. You further warrant and represent to us that you can prove your right to do so through documentary evidence. These foregoing provisions shall survive the termination of this Agreement for any reason.

9. You agree that, at all times, we may examine, monitor, acquire any information associated with your use of our Services, and to disclose it to any person in our own sole and absolute discretion whenever we determine that disclosure is necessary, convenient or appropriate in discharging our legal obligation or to protect the rights or property of any person, including but not limited to ourselves, in the enforcement of the terms of this Agreement or for any business purpose.

10. We and third-party advertisers may set cookies or run scripts on your computer that enable us or our advertising partners to identify your computer and various selections made and websites and pages visited by you and other persons using your computer, for the purpose of directing advertising that we or they feel may be of the most interest to you, and to display that advertising. You consent to that.

11. Without limitation of the foregoing or of any other term in this Agreement, you agree that we and our banks, agents, employees, customer service personnel, or credit card processors may confirm the fact of this Membership subscription, its cost, the level of membership, and/or its inception and termination dates to anyone who may contact us or any of them with the number of any credit card which you have tendered to us or to our banks, agents, employees, customer support personnel, or credit card processors and that we may use any personal or financial information concerning you to collect sums owed to us or otherwise to enforce the terms of this Agreement.

12. You agree that the provisions of this Section, among others in this Agreement, survive the termination of this Agreement.

## **E. Registration Rules**

You agree that:

1. All of the registration information you provide us about yourself – whether online or offline – whether in person at our parties and business events or in correspondence or otherwise - will be truthful, accurate, and complete. Without limiting the foregoing, you will provide your real name, date of birth and email address.
2. You agree to update your registration information in your account in a timely and prompt manner whenever the information collected from you at the time of registration changes. You will assure that it is complete and accurate as long as you maintain an account.
3. You agree that you shall not register under the name of any other person, real or not, living or dead, whether with that person's authorization or otherwise. nor shall you use registration information not your own. You will not maintain simultaneous registration for more than one (1) identity relating to you, yourself.

## **F. Member Standards of Conduct: Prohibited Conduct and Content**

1. You are responsible for the consequences of your conduct. You agree that you will violate no law nor infringe any private right, trademark, or copyright in your use of the Services and you agree that you will use the Services only in a reasonable and responsible way. **Without limiting the foregoing, you agree that you will not post or upload to XDATING.COM, nor through its Services, publish, depict, promote, advertise, transmit, or communicate any Content ("Content" is defined as Paragraph D. 5. of this Agreement) described below nor will you engage in any practice described below, whether done by only yourself or through the agency of any other person:**

- a) The abuse or harassment, bullying, stalking or defamation of any person or giving help, encouragement, or assistance to any other person doing these things. The communication of any threat to any person. The communication of any threat of suicide. Content that promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual. Any contact, through the Service or through any other means or modality whatsoever with any person with whom you have had contact through our service who has asked you not to contact that person, by use of our Services or otherwise.
- b) Intellectual Property, Right of Publicity, Personal Rights, and Right of Privacy
  - 1) Any Content whose use by you infringes the copyright, trademark, patent, or other intellectual property of any person or which violates or tends to violate the right to privacy of any person, including but not limited to the rights of publicity, publication, false light, or the public disclosure of private information.
  - 2) Any Content for which you do not possess all Publication Rights (defined at L. 3. below) necessary for your use of that Content and possess written evidence of those Publication Rights, except as otherwise specifically proved for in Paragraph F. 3. below.
  - 3) Any Content whose use by you amounts or tends to amount to a tort against us or a third person, including, but not limited to, the torts of defamation or intentional infliction of emotional distress.
  - 4) Any other person's personal identification information without that person's permission for such use. (The term "**personal identification information**", as we use it in this

Agreement, means all information personally associated with any particular person by law or custom, including without limitation, the name of and images or video depicting a person or audio containing the sound of that person's voice, and also including any person's actual or real name, any aliases, nicknames, professional names, maiden names, or pre-adoptive names, social security number, driver's license number, the number given in a passport or other officially-issued identification document as that term is defined or described in 18 United States Code Section 1028 (d)(3), expurgated or unexpurgated, redacted or unredacted images of any identification document mentioned or described in that Statute or any part of any of them. It includes, without limitation, any email address other than an anonymous email address issued by this site, the number associated with any bank account, debit card or credit card owned by or issued to any person at any time. It also includes, without limitation, any Personal Identification Number or other numbers or codes used for verification or security for any financial purpose and any username or password combination used or issued to be used online for access to any email account or to access or use of any computer, server, digital storage medium, or computer system or to obtain services of any character from any website or any interactive computer service of any nature whatsoever. Usernames associated with profiles on XDATING.COM are not included within this definition.)

- c) The violation of any law or the promotion of or facilitation of illegal conduct under the laws of any jurisdiction in which XDATING.COM may be accessed, including, but not limited to solicitation of any offense, the promotion, publication, or distribution of an illegal or unauthorized copy of another person's copyrighted work, including but not limited to pirated computer programs, providing information to circumvent manufacturer-installed copy-protection devices, or providing pirated music files, images, videos, text files, graphic images, or links to any of them.
- d) Any advertising, promotion, product, service, , business, commerce, offer, agreement, or proposal.
- e) Any 1) unfair, untrue, misleading, unfairly competitive, fraudulent or deceptive act, practice, communication, transmission or statement whether or not criminal under the laws of any jurisdiction, or which is calculated to achieve any such an improper purpose and 2) the use of any script, program, or other method or technique by which messages, emails, replies, or other communications may be generated and/or transmitted automatically (other than your "out of the office" automatic reply to emails or messages stating that you are unavailable and may be reached at a later time). This prohibition includes for purposes of an example, but is not limited to, the creation of fake profiles that do not even approximately describe you, but which, in fact, describe another person, fictitious or otherwise.
- f) Any program, file, data stream or other material which contains viruses, worms, "Trojan horses" or any other destructive or invasive program, regardless of whether damage is intended or unintended, which may cause damage to any computer equipment, the loss or corruption of data or programs, an inconvenience to any person, or any alteration of any person's computer's settings or configuration;
- g) Distribution, publication, or solicitation of any Personal Identification Information or sexual information about any person under the age of eighteen years, whether with or without the consent of that person.
- h) Chain letters, pyramid schemes and lotteries, and any promotion or advertisement of any of them;
- i) Information concerning the use, possession, sale, distribution, availability, or manufacture of drugs, drug paraphernalia, explosives, weapons, poisons, or other toxic or hazardous substances;



- j) The use of a link to any web site or web protocol of any character from which images, pictures, logos, graphics, or pages not owned or controlled by you may be viewed, received, downloaded, or accessed in any fashion, unless you have prior consent from the owners of such other site or sites. The posting of passwords of any web site or interactive computer service and any deeplink to the contents of any web site, or assisting in the evasion of membership fees of any other person or web site without proper authorization. Linking to any hidden page, directory, or file on any web site, not directly accessible from any other link on that web site.
- k) The impersonation of another Member.
- l) Use of our Services in connection with Content depicting or describing actual or simulated sexual conduct, by photography, drawing or animation, except as provided as follows:
  - 1) You may post certain erotic but non-obscene images as limited below– but you may do so only if you comply with United Kingdom Obscene Publications legislation and the provisions of Title 18 United States Code Section 2257 and its implementing Federal Regulations as authoritatively interpreted by the courts of the United States or by the Department of Justice regardless of whether those statutes and regulations are constitutional. Although we will not provide you with any legal advice or forms, you should acquaint yourself with the laws concerning the publication of images depicting simulated sex, actual, explicit sex, masturbation, bestiality, sadomasochistic abuse, and certain kinds of nudity, because your publication of Content to which they apply, outside compliance with federal law, amounts to a serious crime. The law imposes certain duties on producers, including certain publishers (and each person who inserts an image regulated by the cited statute onto a web page) republishers and "secondary producers", of such Content and those duties include an obligation to inspect identity records and make and retain copies of them, to record the date of production, to inquire about alias names used by the performers, to maintain and organize records concerning the performers and works containing the images, to prepare and affix disclosure statements to works containing such images, and to make records available for inspection by the Attorney General or his or her designee.
  - 2) But the exception contained in F. 1. l) 1. does not extend to - and you agree that you will not use our Services to publish, transmit, or otherwise communicate or distribute - any Content depicting or describing bestiality, necrophilia, coprophilia, urine, vomit, blood, gagging, depictions or descriptions of a sexual nature involving persons under the age of 18 years (including sex of any kind, simulated sex, sexual conduct, masturbation, bondage, domination, sadomasochism or nudity), rape, the infliction of serious pain and/or torture, the sexual penetration of restrained or gagged or blindfolded persons, or the sexual activity of persons with physical or mental disabilities or handicaps, or links to such matters or descriptions of how they may be accessed. Such described Content and any and all Content which is legally obscene in The Federation of St. Kitts and Nevis, The United Kingdom, Bailiwick of Guernsey, Australia, The United States or Canada, any of their subordinate or constituent jurisdictions, or in the jurisdiction in which you are located when you use our Services, is prohibited; and you agree that you will not use our Services to publish, promote, advertise, transmit or distribute such Content.
  - 3) You agree that you may not use our Service to post or publish any material harmful to minors.
- m) Images depicting corpses, diseases, surgery, injury, or violence upon persons or animals.
- n) Any attempt to hack or otherwise obtain unauthorized access to any data on any of our servers or the publication or distribution of any information that would facilitate the hacking of any server.

- o) The posting in any public area of XDATING.COM of any program, algorithm, code, text, or information whose export or public disclosure is regulated by the laws of the United States.
- p) The posting in any place of any information which may be used to unlawfully avoid taxes or to conceal any crime.
- q) Any act that, alone or in its context, would tend to injure or diminish the goodwill or good reputation of XDATING.COM or subject it to liability or embarrassment as we may determine in our sole discretion, whether illegal or otherwise, without restriction.

2. You agree that you will not use any robot, spider, other automatic device, or manual process to monitor or copy our web pages or the Content contained herein without our prior express written permission. You agree that you will not use any device, software or routine to bypass or to interfere or attempt to interfere with the proper working of 'XDATING.COM'.

3. You agree that you will not use our Services to upload, transmit, communicate, advertise, promote, display, or publish any Content for which you do not possess all Publication Rights to use the Content in the manner that you wish to use it. You also agree that you will not use our Services to do any of those things unless you possess written evidence that you possess Publication Rights to use the Content in the manner that you wish to use it.

- a) "**Publication Rights**" includes copyright unless the Content is in the public domain. You agree that you will not use our Services in connection with any Content unless you own all copyrights associated with such Content and unless you can prove that you own all such copyrights through documentary evidence, or unless you have the written permission of all copyright holders associated with the Content and signed by such copyright holders to use the Content as you wish to use it, or unless the Content is in the public domain and you possess written evidence that the Content is in the public domain.
- b) "**Publication Rights**", in the case of identifiable persons, identifiable private places, and/or trademarks depicted in pictorial Content, also includes the permission of the persons depicted, the owner of the places depicted, and the owner of any trademark depicted. You agree that you will not use any pictorial or video Content in connection with our Service unless you have secured and possess the signed, written permission of all persons depicted in the Content or otherwise possessing any rights associated with the Content which may relate to your use of the pictorial Content. However, if you alone are depicted in pictorial Content which you alone have created and which has not been sold, assigned, or licensed to any other person, you do not need to possess written evidence that you have consented to the use of Content depicting only you.
- c) Also, if you are the sole author and creator of any text or design element, which you alone have created and which has not been sold, assigned, or licensed to any other person, you do not need to possess written evidence of your Publication Rights with respect to such text or design element.
- d) You agree that you will take down from our Service and stop using our Service in connection with any Content when you learn that you no longer possess all Publication Rights concerning any Content.

4. You agree that you will not use the Service in any manner that imposes an unreasonable or disproportionately large load on our infrastructure or unreasonably burdens, limits, restricts, or interferes with the use or enjoyment of the Service by any other person.

5. You agree to read any Email sent to you by XDATING.COM on a daily basis and not to filter or otherwise defeat the transmission of Email we send.

6. You agree that you incur liability under this Agreement for any other person's use and/or disclosure of your username/password combination caused by your intentional or negligent conduct.
7. Without limiting any of the foregoing provisions of Paragraphs g) or l), you agree that you will never use our Services in connection with any Content describing or depicting any person under the age of 18. Ever.

## **G. XDATING.COM's Proprietary Rights; Copyright and Trademark**

1. You acknowledge and agree that all Content contained in XDATING.COM, including but not limited to the Content contained in postings, is protected under the law of copyright, and is owned by or is licensed to XDATING.COM, or its Members, and such Content represents proprietary and valuable intellectual property. You agree and warrant that you will not use the Content appearing in XDATING.COM in any public performance nor use, distribute, or republish such Content in any manner inconsistent with the intellectual property rights of the owner of the Content.
2. You acknowledge and agree that XDATING.COM's page design and layout and logos and other graphics and images are valuable intellectual property of XDATING.COM and are protected by copyright, trademark, service mark, patent, and other laws and rights associated with the protection of intellectual property. You will not use any of these items except as provided in this Section. Our protected intellectual property as described herein, received through your use of the Service, may be displayed, and used by you for your use only when you use it in connection with the Service, provided that you must preserve any indicia of trademark or service mark, copyright, or patent, and that you may make no alteration or modification to the item of intellectual property.
3. **Digital Millennium Copyright Act.** If you believe that your work has been copied and posted on the XDATING.COM in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information consistent with the Digital Millennium Copyright Act (DMCA): an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; a description of the copyrighted work that you claim has been infringed; a description of where the material that you claim is infringing is located on the our site including the URLs of web pages and/or hyperlinks; your address, telephone number, and email address; a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; a statement by you, made under penalty of perjury, that the foregoing information in your Notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. XDATING.COM's Copyright Agent for Notice of claims of copyright infringement can be reached as follows:

Custodian of Records:  
DG International  
Amory Building  
Victoria Road  
Basseterre, St. Kitts  
St. Kitts and Nevis

It is the intention of XDATING.COM. to fully comply with the DMCA, including the Notice and "take down" provisions and to benefit from the safe harbors immunizing it from liability to the fullest extent provided by law, and to the extent the Notice and "take down" requirements above may deviate



from the requirements under the DMCA then the Notice requirements as provided by the DMCA shall control and are herein incorporated by reference.

The provisions of this Section, among others in this Agreement, survive the termination of this Agreement.

## **H. DISCLAIMER OF LIABILITY**

**YOU UNDERSTAND AND AGREE THAT THE SERVICES PROVIDED ARE LIKELY TO BE IMPERFECT. YOU AGREE TO ACCEPT THE SERVICES "AS IS" AND AS THEY ARE PROVIDED, AT YOUR OWN EXCLUSIVE RISK, WHEN THEY ARE PROVIDED, AND TO THE EXTENT THAT THEY ARE OFFERED OR FAIL TO BE OFFERED, SUBJECT TO EACH AND EVERY ISSUE, PROBLEM, IMPERFECTION, DEFECT, IRREGULARITY, DISCONTINUITY, OR FAILURE THEY MAY POSSESS. YOU AGREE YOU HAVE NO RECOURSE OR CLAIM ARISING FROM ANY OF THEIR QUALITIES, PROPERTIES, DEFECTS AND/OR FAILURES.**

**XDATING.COM GRANTS NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY, BOTH OF WHICH ARE EXPRESSLY DISCLAIMED, OTHER THAN THOSE WHICH ARE IMPLIED BY LAW AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER APPLICABLE LAW.**

**XDATING.COM DOES NOT GUARANTEE OR PROMISE ANY PARTICULAR RESULTS FROM THE USE OF ITS SERVICE AND DISCLAIMS ANY WARRANTY OF FITNESS FOR ANY PARTICULAR USE OR PURPOSE. WITHOUT LIMITATION OF THE FOREGOING, XDATING.COM DISCLAIMS ANY WARRANTY OR GUARANTEE THAT YOU WILL EVER ENCOUNTER ANOTHER ACTUAL HUMAN BEING THROUGH THE USE OF ITS SERVICES.**

**IN CONNECTION WITH THE DELIVERY OR USE OF THE SERVICE BY ANY PERSON, YOU WAIVE – AND WE DISCLAIM - ANY LIABILITY FOR INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION: DAMAGES FOR LOSS OF USE, DATA, GOODWILL, PROFITS, OR OTHER INTANGIBLE LOSSES ARISING OUT OF THE USE OF, OR INABILITY TO USE, XDATING.COM OR THE CONTENTS OR SERVICES THEREOF, EVEN IF XDATING.COM WAS PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR FOR ANY OTHER CLAIM BY YOU OR BY ANY OTHER PERSON. SOME JURISDICTIONS DO NOT PERMIT A DISCLAIMER OF CONSEQUENTIAL DAMAGES; YOU SHOULD CONSULT THE LAWS OF THE RELEVANT JURISDICTION IN ORDER TO DETERMINE THE EFFICACY OF THE FOREGOING DISCLAIMER OF CONSEQUENTIAL DAMAGES**

**XDATING.COM OFFERS NO ASSURANCE OF UNINTERRUPTED OR ERROR FREE SERVICE. XDATING.COM IS NOT RESPONSIBLE TO YOU FOR ANY ERROR, DELAY IN TRANSMISSION OF CONTENT OR MESSAGES, INTERRUPTION OF SERVICES, INABILITY TO ACCESS ITS SERVICES, OR PROGRAM DOWNTIME BECAUSE OF TECHNICAL PROBLEMS, FAILURE OF THE INTERNET OR THE WORLDWIDE WEB,**

PHONE LINES (OR ANY OTHER MEANS OF TRANSMISSION) OR ANY OTHER REASON OF ANY KIND AT ALL, WHETHER LIKE THESE OR OTHERWISE. XDATING.COM EXPRESSLY DISCLAIMS ANY LIABILITY FOR THE TERMINATION OF ITS SERVICES SHOULD IT EVER DECIDE TO DO SO IN ITS OWN SOLE AND ABSOLUTE DISCRETION, WITH OR WITHOUT NOTICE OF ANY KIND, WITH OR WITHOUT ANY REASON, AT ANY TIME.

XDATING.COM DOES NOT GUARANTEE OR WARRANT THE COMPATIBILITY OF YOUR EQUIPMENT, COMPUTER OR SOFTWARE, (INCLUDING BUT NOT LIMITED TO, THE TYPE OF COMPUTER, COMPUTER CONFIGURATION, COMPATIBLE CODEX OR CODICES, BROWSER SOFTWARE, OTHER SOFTWARE, DIAL UP ACCOUNT, TCP/IP, WINSOCK (OR EQUIVALENT IN ANY OPERATING SYSTEM) OR ONLINE SERVICE.

XDATING.COM DOES NOT GUARANTEE THE SECURITY OF ANY INFORMATION THAT YOU PROVIDE IT, POST, COMMUNICATE, TRANSMIT, OR THAT YOU MAKE ACCESSIBLE IN YOUR USE OF THE SERVICES IT PROVIDES. XDATING.COM DOES NOT WARRANT AGAINST THE LOSS, THEFT OR DELETION OF DATA, NOR ITS ACCURACY OR FREEDOM FROM ERROR NOR OMISSION OF ANY DATA OR SERVICE. XDATING.COM IS NOT RESPONSIBLE TO YOU FOR YOUR DATA OR ITS DISCLOSURE BY ANY PERSON WITHOUT YOUR AUTHORIZATION.

XDATING.COM DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE INFORMATION, TEXT, GRAPHICS, LINKS OR OTHER ITEMS CONTAINED ON ITS SITE NOR USED IN THE SERVICES PROVIDED.

YOU AGREE THAT YOU RELY ON ANY INFORMATION AND USE ANY FEATURE CONTAINED IN THE SERVICES ONLY AT YOUR OWN PERIL, AND YOU UNDERSTAND THAT ERRORS MAY REMAIN UNDETECTED OR UNCORRECTED AT ANY TIME WHATSOEVER.

YOU UNDERSTAND THAT FALSE AND/OR MISLEADING INFORMATION, INSULTING OR DEFAMATORY STATEMENTS, UNAUTHORIZED IMAGES, AND OTHER DAMAGING INFORMATION OR FILES MAY BE POSTED BY OTHER MEMBERS. XDATING.COM EXPRESSLY DISCLAIMS ANY DUTY TO INVESTIGATE OR MONITOR THE ACTIVITIES OF ITS MEMBERS OR THEIR CONTENT OR MESSAGES, TO TAKE DOWN ANY TRUE OR FALSE STATEMENT OR ANY IMAGE, OTHER INFORMATION, OR FILE, OR TO MONITOR, POLICE, OR RESOLVE ANY DISPUTES WHATSOEVER. YOU EXPRESSLY AGREE THAT XDATING.COM HAS NO DUTY TO YOU TO DO ANY OF THESE THINGS. XDATING.COM EXPRESSLY DISCLAIMS ALL RESPONSIBILITY WITH RESPECT TO THE CONDUCT OF ANY MEMBER OF XDATING.COM, ONLINE OR OFFLINE, TO THE MAXIMUM EXTENT PERMITTED BY LAW.

NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY XDATING.COM, ITS AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY NOR IN ANY OTHER WAY LIMIT THE PROVISIONS OF SECTION. NO TERM OF THIS AGREEMENT MAY BE MODIFIED OR CHANGED EXCEPT IN A WRITING SIGNED BY US; NO ORAL REPRESENTATION OR EXTRINSIC STATEMENT OF ANY REPRESENTATIVE OF XDATING.COM IS RELIED UPON BY YOU IN ENTERING INTO THIS AGREEMENT. THE WARRANTIES ON THE PART OF XDATING.COM CONTAINED IN THIS

**AGREEMENT ARE GIVEN IN PLACE OF AND REPLACE, EXCLUDE, AND EXTINGUISH ALL AND EVERY OTHER CONDITION OR WARRANTY WHATSOEVER ON THE PART OF XDATING.COM, WRITTEN OR ORAL, WHETHER EXPRESS OR IMPLIED BY STATUTE, REGULATION, DIRECTIVE OR ANY OTHER LEGISLATIVE OR ADMINISTRATIVE ENACTMENT, COMMON LAW, TRADE USAGE, CUSTOM OR OTHERWISE TO THE FULL EXTENT PERMITTED BY LAW.**

**YOU SOLELY AND EXCLUSIVELY ASSUME ALL RISK AND ACCEPT ALL RESPONSIBILITY FOR YOUR OWN USE OF OUR SERVICES. YOU ALSO ACCEPT SOLE AND EXCLUSIVE RESPONSIBILITY FOR YOUR USE OF OUR SERVICES AND/OR ANY MATERIALS OR CONTENT (INCLUDING PROGRAMMING, CODE, SOFTWARE, ENCRYPTION, DATA OR OTHER INFORMATION TECHNOLOGY) OBTAINED FROM US OR AVAILABLE WITHIN THE SERVICES WE PROVIDE TO ANY PERSON. IT IS NOT LIABLE TO YOU FOR ANY VIRUS, TROJAN HORSE, WORM, OR OTHER MALICIOUS PROGRAM OR INSTRUCTION THAT YOU MAY RECEIVE AS A RESULT OF YOUR MEMBERSHIP IN XDATING.COM OR OTHERWISE.**

## **I. CAUTIONS ABOUT THE USE OF THIS SERVICE AND YOUR RELEASE OF LIABILITY**

1. You know and agree that (with the exception of banner ads, FAQ's and instructions, and design elements), the postings contained on XDATING.COM and the Content they each display, were designed, written and posted, by persons, like yourself, having no collaborative relationship with us for the creation of any such Content. You agree and understand that we have absolutely no control over the nature of these postings or their Content because they are user-submitted and automatically posted and transmitted by technical rather than human means. You agree that XDATING.COM has no duty to monitor any posts or instant chat or otherwise to review the use or postings or communications of any Member, notwithstanding any power we may have to do any of those things. We reserve the right to investigate postings and conduct which may be in violation of this Agreement. You understand and agree that there is no partnership, agency, or employment relationship between us and you or any of the Members and that we do not regularly nor routinely review, examine, censor, or monitor any of these postings nor exert oversight of such a nature as would protect you from offense, harm, injury, embarrassment, humiliation or other risk, and that by your participation in the services provided by XDATING.COM, you bear some risk that, due to the conduct of other subscribers, you may be subjected the harm described here or to other harm.. You are advised to use your own judgment to evaluate all advertisements, solicitations, and other communications posted on this site or promoting such a posting prior to taking any action or transmitting any thing of value to any person in connection with them. You are advised not to share personal information about yourself, your name, your location or employment, your family, or your email address or telephone number with strangers. Please use caution, common sense, and safety when using our Services. You are solely responsible for your interactions with our other Members.

2. By using the Service to post your images and personal profile, you invite and encourage attention by others, and in fact you ask others to evaluate you. You understand that by doing so, you may attract negative comments and evaluations and that you may attract persons who react negatively to you and your appearance. These persons may contact you through any of the means of contact that are possible – inside or outside our Service. You understand that persons, including strangers, may contact you for unlawful purposes and with intent to harm you, to steal from you, to cheat you, to



defraud you, or to make you sad in these ways and others. You also understand that because the activity of Members and others who use the Services are generally not monitored or intercepted by us, that postings, ratings, and contact from any of these persons cannot and will not be prevented by us. We cannot and will not protect you from predators. You can't count on any safety net except your own prudence and common sense. Please use that common sense, caution, and safety when using our Services. We remind you that you are solely responsible for your interactions with our other Members.

3. You may find other users' information or their communications to you to be offensive, harmful, inaccurate, or deceptive. Because we are not generally involved in member interactions, in the event that you have a dispute with one or more members or those persons who have posted, viewed, or used information on the XDATINGS.COM you unconditionally release us and our owners, operators, officers, directors, employees, agents, subsidiaries, successors, attorneys, contractors, and assigns, from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with the operation of XDATINGS.COM and any use or misuse of the Services we provide by any other person whatsoever. Without limitation of the foregoing, you acknowledge and agree that XDATINGS.COM is not responsible for or liable to you for any contact that you may receive as a result of your use of our Services, whether such contact is from cyberspace, by telephone, though e-mail, by snail mail, in person, or consisting of advertising, spamming, solicitation, harassment, stalking, abuse, or recruitment and any and all consequences ensuing from such contact, whether or not you have notified us of any threat, risk, or actual harm.

4. Without prejudice to or limitation of any of the foregoing or any other term or provision of this Agreement, you unconditionally release us and our owners, operators, officers, directors, employees, agents, subsidiaries, successors, attorneys, contractors, and assigns from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with the contents of any postings, ratings, evaluations, comments, and messages, the deletion or modification of any posting, any use or misuse of any Content which you may post or transmit, and access to your profile or its Content by any person whatsoever, whether or not you have notified us of any threat, risk, or actual harm.

**5. IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE § 1542, WHICH SAYS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR." THIS NOTICE IS GIVEN WITH RESPECT TO EACH RELEASE CONTAINED WITHIN THIS AGREEMENT, WHICH CONTAINS SEVERAL RELEASES.**

6. In order to enhance your amusement experience, to stimulate you and others to use our Services more extensively, and to generally sprinkle some sparkle and excitement into the Services of XDATINGS.COM, we may post fictitious profiles, generate or respond to communications by means of automated programs or scripts that simulate or attempt to simulate your intercommunication with another real human being (though none really exists and any dialog is generated by programming), and we may employ or contract for the paid services of real persons who may interact with you as part of their compensated employment. While these communications may seem genuine, authentic, and personal, they may be broadcast simultaneously to a large number of persons and possess none of these qualities. While their contents may appear to be true, they may be quite false; while their

contents may appear to sincere, they may be quite disingenuous. Sometimes, we may use these techniques or others like them for other business purposes, too, including, but not limited to those cases in which we monitor and/or investigate into operations, including but not limited to allegations that you or others have violated this Agreement.

7. Without prejudice to or limitation of any of the foregoing or any other term or provision of this Agreement, you hereby unconditionally release us and our owners, operators, officers, directors, employees, agents, subsidiaries, successors, attorneys, contractors, and assigns, and all other persons from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, incurred and alleged to be incurred, by any of them in connection with any

- a) false, misleading, or deceptive statement contained in any personal profile, post, rating, evaluation, comment, instant chat, email, or communication through the use of our Services, whether originated by us, another Member, any user of our Services, or any other person, and
- b) false, misleading, or deceptive appearance, suggestion or implication of the authorship, origin, sincerity, motivation or intent of any personal profile, post, rating, evaluation, comment, instant chat, email, or communication published or transmitted through the use of our Services, whether actually originated by us, another Member, any user of our Services, or any other person.

8. You agree that all of the provisions of this Section survive the termination of this Agreement for any reason.

## **J. ABUSE AND PROPER USE OF THE SERVICES**

1. You are responsible to know and control the Content of your postings. You alone are legally responsible for your Content. You acknowledge and agree that XDATING.COM will not actively or regularly control, supervise, monitor or censor the Content of your postings, although it reserves the right to do at its option. We need not control public access to your postings, by age or otherwise.

2. We reserve the right to investigate into claims of misconduct or the violation of this Agreement and to delete postings or any part of them in the exercise of our sole discretion. You understand that the number, variety of such postings, and the Content of any of them will not remain fixed, but that over time, additions and eliminations of such postings will take place and that the Content found on any of the respective postings will change both by addition and elimination. You agree to promptly and diligently co-operate in good faith with all requests made by us to investigate any violation or allegations of violation of any of the terms contained in this Agreement and/or to verify your compliance with this Agreement; you agree to provide us with such documents, records and statements as we may reasonably request, including but not limited to your recorded or transcribed statements under oath, and to execute such consent forms as may be necessary or convenient for us to obtain documents, records, and statements not in your actual possession. You understand that we reserve the right to proceed against you for damages, injunction, or other relief should you violate the terms of this Agreement and we may, in our sole discretion, terminate your membership for such a violation and/or report your identity to any law enforcement agency, other agency of government, school, or any other person at all, without prejudice to our broader rights of disclosure under Part D. and/or any other part of this Agreement. You understand that, should we delete a post or any part of it, the deletion may result in the permanent destruction of the material deleted. As otherwise required in

this Agreement, you should back up locally all of the Content contained in your posts. These provisions survive the termination of this Agreement for any reason.

## **K. INDEMNIFICATION AND DEFENSE**

1. You agree to indemnify, defend and hold us (and any and all of our owners, operators, employees, contractors, agents and attorneys) harmless from any and all cost, expense or liability (including but not limited to any fine, award or judgment or settlement) arising or deriving from any prosecution, claim, civil litigation, administrative action, arbitration, mediation or litigation of any character whatsoever arising in any manner whatsoever from your access to XDATING.COM, your use of any password or username assigned to you by us, your conduct and contact with any Member or any other person whatsoever, your use of any Content posted to or downloaded from XDATING.COM, and your use of any Services provided by XDATING.COM, that XDATING.COM and/or its owners, officers, employees, agents, and attorneys may incur as a result of your use of any of the Services offered by us or otherwise.

2. Your duty to defend persons under this Agreement includes the duty to reimburse the attorneys' fees, legal expense, fees, and other reasonable costs of defense though counsel of our own selection and we alone shall have the right to control our defense, even if our defense directly conflicts with your interests.

3. You agree that should you receive any information concerning any claim or lawsuit or the threat of either, against us or against you, on account of your use of our Services, you shall immediately inform us with all details known to you by means of the most rapid and sure means available to you. You shall not use email as the exclusive means of so informing us, but if you use it as a supplementary form of communicating this to us, you shall transmit it to legal@dginternational.com, using the header: "NOTICE OF CLAIM AGAINST XDATING.COM".

4. The provisions of this Section, among others in this Agreement, survive the termination of this Agreement.

## **L. Termination and Cancellation of the Services and Membership Subscription**

1. When your use of the Service seems to violate Agreement, we may, but do not have to, advise you of your obligations under this Agreement, and we may take any action provided for in this Agreement.

2. Should you violate any of the terms of this Agreement, or should we have a reasonable suspicion that you have done so, we may, in our absolute discretion, cancel your registration, bar future registration, terminate any profile, username or password, permanently delete all or any part of your Content, and/or take any other action we deem fair or sensible in our sole and absolute discretion, at any time, for any reason or no reason, with or without notice. This provision is not meant to limit or restrict the absolute right of XDATING.COM under Sections B. 2. and L.3. of this Agreement (and elsewhere) to terminate this Agreement for any reason or no reason, at any time, with or without notice.



3. Membership in XDATINGS.COM may be terminated by you at any time, with or without any cause. You may terminate your account at [this link](#). Your access to XDATINGS.COM, your account, and/or your username and password combination may also be terminated by XDATINGS.COM at any time, with or without cause and with or without prior notice and we may delete all of your data on our servers when we do so, with or without prior notice.

4. You may cancel your Membership subscription at any time prior to the end of any recurring billing date; cancellation will be effective to preclude rebilling on the next billing date as long as notice is given at least 24 hours prior to the end of the date set for recurring billing and your use of our Services will end at midnight on the date scheduled for recurring billing. If we terminate your Membership because you breached this Agreement, your payment for the balance of your present Membership period is automatically and immediately forfeited as liquidated damages for your breach, the parties agreeing that the economic measure of your potential breaches of this Agreement are, at present, speculative, and are likely to be difficult to compute with any precision should they accrue to us. You agree that should we terminate all of our Services or your Membership subscription without cause, we may compensate you for the value of your remaining Membership Subscription Period in any reasonable fashion, including, but not limited to your access to another website of reasonably comparable value for the duration which remains in the current Membership Subscription Period. You agree that the value of such access will be the sole and exclusive compensation to which you will be entitled in the event that your access is terminated without cause before your Membership Subscription Period ends.

5. You agree that XDATINGS.COM shall not be liable to you or any third party for any damages arising out of its termination or suspension of your access to the Service or modification of the Service or its termination of the Service or any part of it, including but not limited to the loss of your data. You agree that, given the uncertain and speculative nature of any economic damages that may ensue at an unknown time in the future, should the preceding sentence be determined by competent authority to be invalid, and should you possess a valid legal claim against us, the sole and exclusive compensation to which you will be entitled is the cost of one month's Membership Subscription as set on the Upgrade Page in the category of Membership in which your Membership Subscription was last paid.

## **M. Entire Agreement**

1. You acknowledge, represent and warrant that you have read these terms and conditions and agree to be bound by them (as they may be modified in accordance with the terms of this Agreement) as part of and in consideration of your XDATINGS.COM membership.

2. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision(s) had never been included.

3. The headings set out before the various paragraphs of this Agreement are set out for convenience only and it is agreed that they do not limit the meaning or extent of any language found in such paragraphs. You agree that this Agreement fully and completely integrates and incorporates and recites every agreement between you and XDATINGS.COM, subject to the provisions of this Agreement providing for change, and you agree that all prior discussions, agreements, or negotiations between the parties are either rescinded by mutual agreement or have been integrated into this

Agreement, and that none any longer survives as a matter that is enforceable unless it has been expressly set forth in this Agreement.

## N. Governing Law

**Choice of Law, Arbitration, Exclusive Jurisdiction.** You further acknowledge and agree, by applying for membership to XDATING.COM, that these terms and conditions shall be construed under and pursuant to the laws of the Federation of St. Kitts and Nevis (excepting and disregarding only its laws, decisions, and rules of law concerning choice of law). Except as may otherwise be specifically provided otherwise herein, any and all disputes arising out of or related to this Agreement and/or your relationship with XDATING.COM and/or your use of this site shall be exclusively submitted to binding arbitration according to the rules for commercial arbitration of the American Arbitration Association. The parties to the arbitration shall evenly divide any and all costs of the arbitration. Neither party shall be entitled to attorney fees except as otherwise expressly provided in this Agreement. The arbitration shall take place exclusively in Federation of St. Kitts and Nevis. Should it be impractical or impossible to obtain arbitration under the auspices of the American Arbitration Association in the place set forth herein each party shall select one arbitrator residing within the Federation of St. Kitts and Nevis, the arbitrators shall one independent arbitrator, and arbitration shall proceed under to conduct arbitration in accordance with the American Arbitration Association's rules as set forth herein and the decision of such arbitrators shall have the same effect as though rendered by a panel of the American Arbitration Association. Judgment on the award rendered by the arbitrators may be entered in the courts of the Federation of St. Kitts and Nevis. To the extent that the terms of the foregoing arbitration provisions do not apply for any reason, you agree to the personal jurisdiction of the courts of the Federation of St. Kitts and Nevis and that, should the arbitration clause of this Agreement not control for any reason, the sole and exclusive jurisdiction and venue for any action to enforce, interpret or otherwise deal with the terms of this Agreement or arising in any way out of the rights, duties, and obligations of this Agreement, or concerning XDATING.COM or its services or concerning any rights or causes of action of any sort or kind arising or claimed by anyone to arise from your relationship with XDATING.COM, or any dealings or acts by you or XDATING.COM in connection or relation to one another, regardless of whether others may be also involved, shall be in the of the Federation of St. Kitts and Nevis.

## O. EXECUTION

You agree by creating an account on XDATING.COM, you intend that act to have effect as your signature and to bind you by that digital signature for all purposes in law as though you had manually signed your signature to the Agreement on paper with ink. You intend, by so clicking, that each of the representations contained in this Agreement and made to us are made by you under oath and under the penalty provided in law for perjury and/or false swearing. You know and acknowledge that such an act creates a contract, the violation of which imposes a financial liability upon you. You also know that in accepting this Agreement, you make a sworn statement, the knowing untruthfulness of which may result in the imposition of a criminal penalty upon you. Similarly, you agree that by each subsequent access you may have to the Service provided by XDATING.COM, including, without limitation, your use of a username/password assigned by it to you, your use of any email or instant chat service provided by it to you, and your posting of any photograph or data to XDATING.COM, you intend that act also amount to your digital signature and to have the same effects and consequences as your click below in acceptance of this Agreement, as it then exists.

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All members and persons appearing on this site have contractually represented to us that they are 18 years of age or older.